



San Diego City Attorney **MICHAEL J. AGUIRRE**

NEWS RELEASE

FOR IMMEDIATE RELEASE: September 30, 2005*

Contact: Maria Velasquez, Communications Director: (619) 235-5725 (pager & voicemail) mvelasquez@saniego.gov

CITY ATTORNEY WILL APPEAL PENSION BENEFIT RULING

San Diego, CA: San Diego City Attorney Michael Aguirre said he will appeal a judge's ruling issued today dismissing a civil lawsuit, "People v. Grissom," filed to set aside "illegal pension benefits." Aguirre said that the Superior Court judge erred by failing to allow the case to be resolved on its merits. Aguirre noted that another legal action to clarify the legality of pension benefits is continuing and that favorable court rulings in a related criminal case brought by the District Attorney have been issued.

The action dismissed today by Judge S. Charles Wickersham was brought under the Political Reform Act and filed by the City Attorney on July 7, 2005. The action alleged that City and Pension officials held financial interests in illegal pension benefits created as part of a *quid pro quo* scheme. Although calling the defendant's conduct reprehensible but not illegal under the Political Reform Act, Judge Wickersham erroneously concluded that the only "financial interests" alleged in the complaint are pension benefits which he said were excluded from the legal definition of "income."

Deputy City Attorneys Don McGrath and Amy Lepine at the oral argument this morning directed the Court's attention to the fact that the complaint clearly alleged the defendants "held a financial interest in the ...*agreements* to violate their respective fiduciary duties in order to create illegal benefits" in their favor.

Concluding that the complaint alleged that the defendants held only a financial interest in pension benefits, the Judge failed to thoroughly consider the clear and unambiguous financial interests the defendants held in the *quid pro quo* contracts. According to Aguirre, the Court essentially ruled that bank robbers don't commit crimes because the money stolen is legal currency.

The defendants' prohibited financial interests are referred to throughout the complaint as "Defendants' MP-1 Quid Pro Quo Economic Interests" and "Defendants' MP-2 Quid Pro Quo Economic Interests" in reference to Manager's Proposal 1 and 2, respectively. MP-1 and MP-2 are the contracts wherein the defendants memorialized their illegal agreements to underfund the plan in order to receive the enhanced benefits.

The complaint further alleged that Defendants' actions pursuant to the *quid pro quo* agreements were illegal under both the San Diego City Charter § 99 and California Constitution Art. 16 § 18, which prohibit the creation of liabilities for which same-year revenues are not available. Aguirre stated that the defendants' actions have jeopardized the City's long-term ability to meet its fundamental obligations.

(MORE)

Recent City Attorney media releases can be accessed on the San Diego City Attorney's home page located on the Internet at <http://www.sandiegocityattorney.org>

1200 Third Avenue, Suite 1620, San Diego, California 92101-4188 (619) 236-6220

Aguirre noted that on August 29, 2005, Judge Frederic Link, faced with a similar decision in the criminal case brought by the District Attorney, came to the opposite conclusion and found that defendants did, in fact, hold impermissible financial interests under Government Code §1090.

The Political Reform Act was passed by initiative in 1974 to prevent self-dealing by government officials who pass laws that benefit them personally. Among its stated purposes, the Act provides that the “assets and income of public officials which may be materially affected by their official actions should be disclosed and in appropriate circumstances the officials should be disqualified from acting in order that conflicts of interests may be avoided.”

###